

Notice of Allowability

Application No.
09/385,114

Applicant(s)
Whitehouse

Examiner
Hope Robinson

Art Unit
1653



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/31/02

2. ☒ The allowed claim(s) is/are 10-67

3. ☐ The drawings filed on _____ are acceptable as formal drawings.

4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

5. ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No. _____

(b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.

(c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

1 ☐ Notice of References Cited (PTO-892)

3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5 ☐ Information Disclosure Statement(s) (PTO-1449), Paper No(s). _____

7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

9 ☐ Other

2 ☐ Notice of Informal Patent Application (PTO-152)

4 ☒ Interview Summary (PTO-413), Paper No. 20 ^{23,25} ₂₆

6 ☒ Examiner's Amendment/Comment

8 ☒ Examiner's Statement of Reasons for Allowance

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EXAMINER'S AMENDMENT

1. An Examiner's amendment to the record appears below. Should the changes and/or

additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312.

To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization of this Examiner's amendment was given in a telephone interview with Ms.

Leslie Henry on February 13, 2002.

3. The claims have been amended as follows:

(a) Claim 10 (Three Times Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2

P1
(FGF-2)".

(b) Claim 17 (Three Times Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2

P2
(FGF-2)".

(c) Claim 26 (Three Times Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2

P3
(FGF-2)".

(d) Claim 30 (Three Times Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2

P4
(FGF-2)".

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F3 (e) Claim 35 (Three Times Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2 (FGF-2)".

FL (e) Claim 51 (Twice Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2 (FGF-2)".

F7 (g) Claim 58 (Twice Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2 (FGF-2)".

F8 (h) Claim 62 (Twice Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2 (FGF-2)".

F9 (i) Claim 65 (Twice Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2 (FGF-2)".

(j) Claim 12 (Twice Amended) Delete "within about 0 to 30 minutes prior to" and Insert "within 30 minutes of".

(k) Claim 46 (Twice Amended) Delete "within about 0 to 30 minutes prior to" and Insert "within 30 minutes of".

(l) Claim 31 (Amended) Delete "0 to 30 minutes prior to" and Insert "about 30 minutes of".

(m) Claim 63 (Amended) Delete "0 to 30 minutes prior to" and Insert "about 30 minutes of".

(n) Claim 66 (Amended) Delete "0 to 30 minutes prior to" and Insert "about 30 minutes of".

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(o) Claim 44 (Twice Amended) Delete "FGF-2" and Insert "fibroblast growth factor-2 (FGF-2)"

Reasons for Allowance

4. The following is an Examiner's statement of reasons for allowance:

The applicant has claimed a method for treating a human patient for coronary artery disease, comprising administering a therapeutically effective amount of a recombinant fibroblast growth factor-2 or an angiogenically active fragment or an angiogenically active mutein thereof into one or more coronary vessels or into a peripheral vein in a human patient in need of treatment for said coronary artery disease, said therapeutically effective amount being about 0.2 $\mu\text{g/kg}$ to 48 $\mu\text{g/kg}$ of patient weight. Applicant's amendment filed January 31, 2002 including a terminal disclaimer and the amendment to the claims above was sufficient to overcome the rejections of record. In addition, a search of commercial databases did not find references that teach the claimed method. Thus, the claimed invention is novel and nonobvious over the prior art of record.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope Robinson whose telephone number is (703) 308-6231. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S.F. Low, can be reached at (703) 308-2923.

Any inquiries of a general nature relating to this application should be directed to the Group Receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted by facsimile transmission. The official fax phone number for Technology Center 1600 is (703) 308-4242. Please affix the examiner's name on a cover sheet attached to your communication should you choose to fax your response. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

Hope Robinson, MS 

Patent Examiner



KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER

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